



2839
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Akihiro MURATA

Group Art Unit: 2839

Application No.: 09/801,489

Examiner: S. Nguyen

Filed: March 8, 2001

Docket No.: 108883

For: PLATFORM AND OPTICAL MODULE, MANUFACTURING METHOD OF THE
SAME, AND OPTICAL TRANSMISSION DEVICE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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In reply to the September 25, 2003 Office Action, reconsideration of the rejection is respectfully requested in light of the following remarks.

Claims 1-26, 28-33 and 35-36 are pending herein.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Nguyen in the December 22, 2003 interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

I. Pending Claims

The Office Action indicates that claims 1-34 are pending and then proceeds to reject claims 1-34. However, in a Preliminary Amendment filed on July 16, 2001, Applicant canceled claims 27 and 34 and added new claims 35 and 36. A copy of this Preliminary Amendment, along with the date stamped receipt, are enclosed for the Patent Office's convenience. Claims 1-26, 28-33 and 35-36 are pending.

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As claims 35 and 36 have not been rejected, Applicant assumes claims 35 and 36 are allowed.

II. Claim Rejection Under 35 U.S.C. §102(b)

Claims 1-34 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,517,259 (hereinafter "Murata"). As claims 27 and 34 were previously canceled by Preliminary Amendment filed on July 16, 2001, Applicant assumes that the Patent Office is rejecting only claims 1-26 and 28-33. This rejection is respectfully traversed.

Murata does not qualify as prior art under any section of 35 U.S.C. §102. More specifically, as explained in MPEP §706.02(a), for 35 U.S.C. §102(b) to apply, the publication or issue date of the reference must be more than one year prior to the effective filing date of the application. Murata issued on February 11, 2003. The present application was filed in the United States on March 8, 2001. Thus, Murata does not qualify as prior art under 35 U.S.C. §102(b) because Murata issued on Feb. 11, 2003, after the effective filing date of the present application, not more than one year before the effective filing date of the present application.

Further, the Murata reference is by the same inventive entity (Akihiro Murata) as the present application. As such, Murata is not "by another" as required under 35 U.S.C. §102(e) and is therefore not available as prior art under 35 U.S.C. §102(e).

For the foregoing reasons, Applicant respectfully submits that Murata is not prior art against the claimed invention. Reconsideration and withdrawal of this rejection are thus respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-26, 28-33, 35 and 36 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Linda M. Saltiel
Registration No. 51,122

JAO:LMS/hs

Attachments:

Copy of July 16, 2001 Preliminary Amendment
Stamped Receipt

Date: December 23, 2003

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P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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